186 Center Street Suite 290 Clinton, NJ 08809 (908) 735-9315 (908) 735-2132 FAX

December 16, 2013

VIA ELECTRONIC & US MAIL

Ms. Stephanie Vaughn
ATTN: Lower Passaic River Remedial Project Manager
Emergency and Remedial Response Division
U.S. EPA, Region 2
290 Broadway, 19th Floor
New York, New York 10007

Re: Monthly Progress Report No. 15 – November 2013 Lower Passaic River Study Area (LPRSA) River Mile 10.9 Removal Action CERCLA Docket No. 02-2012-2015

Dear Ms. Vaughn:

de maximis, inc. is submitting this Monthly Progress Report for the above-captioned project on behalf of the Cooperating Parties Group (CPG) pursuant to the Administrative Settlement Agreement and Order on Consent for Removal Action (Settlement Agreement or AOC). The Progress Report satisfies the reporting requirements of Paragraph 28 of the River Mile (RM) 10.9 Settlement Agreement.

(a) Actions which have been taken to comply with this Settlement Agreement during the month of November, 2013.

Meetings/Conference Calls

- On November 4, Great Lakes Dredge and Dock (GLDD) held a meeting with CPG to review their plans and readiness for capping of the Removal Area.
- On November 6, CPG and EPA held a teleconference to discuss the Capping Plan and Schedule.
- On November 13, CPG held a teleconference to review with EPA progress in capping.
- On November 13, EPA sponsored a teleconference to review with CPG its requests for carbon analysis of the placed active layer.
- On November 20, CPG held a teleconference to review with EPA progress in capping.
- On November 27, CPG held a teleconference to review with EPA progress in capping.

Correspondence

- On November 1, Hudson County informed CPG that if there is inclement weather before
 the project is completed, the road crews may not be able to support bridge openings
 because their primary responsibility during winter storms is clearing the county roads.
- On November 1, 5, 7, 10, 13, 19, 21, 23, 27 and 30, CPG informed and updated the Counties and all bridge operators of its requests for bridge openings.



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- On November 1, CPG asked EPA if and when they would be approving the sand for the RM 10.9 cap based on analytical data provided in October, 2013. EPA provided a preliminary approval to allow sand to begin to be transported to the site. EPA provided final approval on November 4.
- On November 4, CPG informed Essex County of its conditions for continuing to pay for operator overtime in support of bridge openings during the remainder of the Removal Action project.
- On November 4, EPA asked about the status of armor stone testing. EPA confirmed that
 in addition to tests required by the approved Final Design Report, they also wanted the
 pH of water in contact with the proposed armoring stone to be tested.
- On November 5, EPA informed CPG about information that needed to be discussed in the scheduled November 6 teleconference.
- On November 6, EPA told CPG in that day's teleconference and in a follow-up email that CPG needed to collect and analyze samples of active layer cores for carbon content.
- On November 7, EPA provided comments and asked questions regarding the Capping Plan and proposed modifications to the Water Quality Monitoring Plan during capping.
- On November 8, CPG replied to EPA's November 6 directive that it would implement a program to test the carbon content of the applied active layer, but expected that the results would prove inconclusive.
- On November 11, CPG responded to EPA's November 7 comments and questions regarding the Capping Plan and approach to water quality monitoring during capping.
- On November 11, Hudson County notified CPG of a potential mechanical problem developing at Bridge Street Bridge (BSB).
- On November 12, Hudson County indicated that BSB could continue to be operated, but that it would eventually need to have a second shaft replaced, and asked CPG to notify it when there could be a 7 day period during which there will be no need for bridge openings to allow the repairs to proceed.
- On November 12, CPG described for EPA the mechanical problems that have delayed implementation of the Capping Plan, and notified EPA that the first water quality sampling event during capping was being delayed from November 13 to November 14 or later depending on ability to overcome the mechanical difficulties.
- On November 13, CPG requested approval from EPA of a modification to the test method for petrographic analysis of the cap's armor stone.
- On November 14, EPA approved the requested modification to the armor stone petrographic analysis method.
- On November 14, CPG verbally notified EPA that it would not be recommending long term chemical monitoring of the RM 10.9 Removal Area cap.
- On November 15, CPG and EPA agreed to postpone the first water quality sampling event during capping until November 19. Subsequently, CPG notified EPA that the sampling event would need to occur on November 20 when the sampling boat would first be available.
- On November 20, CPG submitted to EPA a Technical Memorandum describing its proposed approach to analysis of Total Carbon in the active layer.

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- On November 21, EPA authorized CPG to implement the Sampling and Analysis Plan for Total Carbon in the active layer.
- On November 21, 25 and 27, EPA reviewed and approved for posting CPG's <u>www.rm109.com</u> website project statements and updates.
- On November 21 and 25, EPA requested that CPG provide more details on the production data associated with laying of the active layer.
- On November 25, CPG provided EPA a table of showing volumes of AquaGate+PAC™ and estimated volumes of sand applied to the Removal Area from November 12-22.
- On November 25, EPA asked CPG why the active layer was being placed for only several hours each day, and if anything could be done to speed up production. CPG replied that logistics of material transport from South Amboy to RM 10.9, especially the availability of limited draft on the Passaic River, coordination with bridge operators and the need to move materials only at high tide, restrict how much material can be transported during any day.
- On November 25, CPG provided EPA a graphic showing the location and depth of all active layer cores taken to date to prove that adequate material was applied.
- On November 25, CPG submitted a Marine Inspectors report to the Rutherford Police and a Rutherford resident replying to the resident's accusation that wakes from boats under contract to CPG were damaging a retaining wall on his property.
- On November 26, EPA noted that production data submitted on November 25 was not meeting the requirement for a minimum average of 30% by volume AquaGate+PAC™ placement rate, and asked how CPG planned to address that.
- On November 26, EPA acknowledged the data showing adequate depth of active layer placement in most of the Removal Area, and requested similar proof that there is adequate coverage in the hardpan areas. In addition, EPA asked CPG to be prepared to track potential impacts from an anticipated November 27 storm on the active layer.
- On November 26, CPG requested the approval of EPA to suspend all further real-time air monitoring given the historical record showing no releases to air during dredging or capping, and requested that the November 26 water quality sampling event be the last.
- On November 26, CPG responded to EPA's request for plans to increase AquaGate+PAC™ coverage in the Removal Area, and provided additional operating data regarding placement of sand and AquaGate+PAC™.
- On November 26, CPG informed EPA that cap thickness in the hard pan areas had been tested, that it met the design requirements, and that a map and table of those results was being developed. CPG also indicated it would monitor river flows during the anticipated November 27 storm to determine if there could be any impacts on the Removal Area cap.
- On November 27, EPA noted and CPG corrected discrepancies on the identifiers associated with the turbidity monitoring buoys.
- On November 27, CPG submitted to EPA a written summary of discussion points and agreements reached in that morning's teleconference with EPA.

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Work

- In early November, capping equipment was mobilized to the RM 10.9 area.
- On November 12, CPG began placing the active layer in the RM 10.9 Removal Area.
- On November 15, the last load of stabilized sediment and RM 10.9 debris was received at the Lone Mountain Landfill in Waynoka, Oklahoma.
- On November 21, a steel cable was removed from an area that could have interfered with the cap south of the No Dredge Zone.
- In November, two series of transect, composite water quality samples were collected during capping operations.
- In November, real time air monitoring of capping operations continued through November 26, after which real time air monitoring was discontinued.
- In November, CPG collected core samples of the active layer for QA/QC purposes and submitted several of those cores to a laboratory for Total Carbon analyses.
- CPG continued to monitor the operability of BSB.
- CPG informed EPA of its long term monitoring strategies for the RM 10.9 Removal Area.

(b) Results of Sampling and Tests

- On November 6, CPG provided EPA data on TCDD and PCBs in sediment samples from the undercut areas.
- On November 7, CPG submitted to EPA the final series of water quality data collected during dredging.
- On November 21, CPG submitted to EPA Region 2 a MEDD format data package containing validated results associated with the LPRSA RM 10.9 RA Water Column Monitoring (Re-suspension Monitoring), Air Monitoring and Post-dredge sediment sampling activities.

(c) Work planned for the next two months with schedules relating to the overall project schedule for design completion and construction

- CPG will complete capping operations
- CPG will continue to monitor turbidity during cap placement while seeking to eliminate these monitors after the armoring layer is completed.
- CPG will implement sampling of water and/or air quality if community complaints or turbidity monitoring indicate that capping is a possible cause for environmental impacts.
- CPG will continue to provide regular and as-needed updates to river users about barge movements and other important project milestones.
- CPG will continue to monitor bridge operability issues.
- CPG will begin to draft a Final Report.

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(d) <u>Problems encountered and anticipated problems, actual or anticipated delays, and solutions developed and implemented to address actual or anticipated problems or delays</u>

- There is still no resolution concerning the Tierra/Maxus/Occidental (TMO) UAO and their participation in the RM 10.9 Removal Action. As documented in the CPG's correspondence of July 27, 2012 and September 7, 2012, the offer from TMO was inadequate and provided no meaningful value to the RM 10.9 Removal Action.
- The inoperability of the Bridge Street Bridge due to Hurricane Sandy damage delayed
 the start of the Removal Action because equipment could not be mobilized up river until
 that bridge was operational. CPG informed EPA of a Force Majeure condition by phone
 on June 24 and in writing on June 29 as required by the AOC. CPG and its contractors
 worked with the Counties to resolve the BSB operational issues and agreed to provide
 funds to the three counties to support operator overtime.
- The CPG strongly disagrees with the EPA's July 15 letter denying the Force Majeure condition outlined in CPG's June 29, 2013. EPA's rationale for denial is inconsistent with terms and definitions in the AOC. Both the inoperability of the Bridge Street Bridge due to Hurricane Sandy and the repeated delays in the repaired motors being shipped and reinstalled have been and continue to be clearly beyond the control of the CPG. Moreover, Hudson and Essex Counties have failed to meet their obligations under Federal Regulations to properly maintain and operate their bridges and to provide proper notice of the status of their bridges to US Coast Guard, mariners and the general public. Finally, the CPG has voluntarily provided funds to the Counties to operate the bridges with no regulatory requirement to do so. As noted above it is the Counties obligation to ensure that their bridges are operating and ready to open upon notice. CPG has addressed this issue in its July 31 letter to EPA.
- A significant mechanical failure that occurred on August 31 at BSB resulted in a second Force Majeure condition that prevented any barge movement from August 31 through September 18. The CPG provided initial notice to EPA's oversight contractor on August 31 and provided additional information on September 1 to the EPA. On September 5. the CPG submitted a Force Majeure letter regarding the possible impact of this bridge failure on Removal Action schedules, which was then updated on September 17. On September 3, the CPG notified the US Coast Guard of the situation and requested that the USCG use its authority to direct that the bridge be opened so that marine traffic can resume; the USCG would not compel the Counties to operate the BSB based on the Counties' initial concern about damage to the BSB. However, the Counties subsequently determined that the BSB could be opened without damage but demanded monetary compensation for bridge openings that they are required to provide upon receipt of proper and timely notice (without compensation) pursuant to federal regulations. The CPG reluctantly agreed to provide the compensation in order to complete the Removal Action. EPA and USCG have been reluctant and unwilling to utilize their enforcement and regulatory authority to compel the Counties to fulfill their obligation. The re-opening of BSB on September 18 allowed dredging to resume, and CPG anticipates that the Removal Action including capping can be completed in

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> January 2014 assuming there are no additional issues related to bridge operations or other conditions beyond its control.

Hudson County has notified the CPG that BSB will need to be taken out of service for what they now indicate is a 7-10 day period after the Thanksgiving holiday to replace a second shaft which the County's mechanical contractor indicates is now showing signs of being stressed. The CPG will continue to monitor this situation and notify Hudson County of its schedule so that repairs can be scheduled at a time that has minimum disruption on the capping schedule. However, if the second shaft suffers damage before that time, capping operations may be delayed if BSB is again taken out of service and the repair schedule prevents it from even being opened with winches.

If you have any questions, please contact Bill Potter, Rob Law or me at (908) 735-9315.

Very truly yours.

de maximis, inc.

Stan Kaczmarek, PE

RM 10.9 Removal Action Project Coordinator

CC:

Pat Hick, EPA Office of Regional Counsel William Hyatt, CPG Coordinating Counsel

Jay Nickerson, NJDEP Roger McCready, CH2M Hill

Sharon Budney, CDM-Smith

Elizabeth Franklin, US Army Corps of Engineers